

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7801

BILL NUMBER: SB 491

NOTE PREPARED: Jan 27, 2003

BILL AMENDED:

SUBJECT: Wetlands.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **X GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill establishes a program for the issuance of permits for the discharge of fill material into certain wetlands; and a wetlands mitigation bank program.

Effective Date: Upon passage.

Explanation of State Expenditures: This bill contains a number of rulemaking directives and requires the Department of Environmental Management (IDEM) to operate a wetlands permit program. Some of the rulemaking directives are included in the rulemaking that was preliminarily adopted by the Water Pollution Control Board, while other rulemaking directives are new. IDEM has historically operated the Clean Water Act's Section 401 Water Quality Certification program which no longer applies to "isolated wetlands." However, the creation of a state program to regulate isolated wetlands will not require new resources, except for provisions that call for the categorization of wetlands.

IC 13-18-22-2(b) directs the Water Pollution Control Board to establish a general permit by rule. IC 13-18-22-3 directs the board to adopt rules for individual permits. Rules on wetlands were preliminarily adopted by the board, but the rulemaking directives in SB 491 depart from the preliminarily adopted rule. Therefore, IDEM would incur additional staff costs associated with rulemaking development activities for the rulemaking directives in SB 491. These staff costs are indeterminate at this point but are not expected to be significant.

IC 13-18-22-5 directs IDEM to administer the wetland permit program. IDEM has historically operated a certification program for wetlands covered by this section. Based on the proposal, many fewer wetlands will require an individual permit or 'certification,' so significantly fewer resources will be needed to review applications. However, the permits require categorization of wetlands in a manner that is not familiar to IDEM. Consequently, significant additional effort will be required to implement this provision. Resources needed for this activity are currently indeterminable.

IC 13-18-22-7 directs the board to adopt rules for designating a wetland as an outstanding state protected wetland. This requirement is not included in the preliminarily adopted rule. IDEM would incur additional staff costs for conducting the rulemaking and implementing this aspect of the program. Costs are currently indeterminable.

IC 13-18-23-3(e) directs IDEM to administer the wetland mitigation bank program. IDEM currently has an agreement with other agencies for wetland mitigation banking.

IC 13-18-23-4 directs IDEM to create and maintain a registry of newly formed wetlands and create a form for the registration of wetlands for the mitigation bank. IC 13-18-23-4(b)(6) provides for a one-time registration fee of the lesser of \$10/acre or \$100 per wetland. IC 13-18-23-5(b) provides for a \$25 fee to IDEM for each sale of credits. The number of registrations is indeterminable. IDEM would experience an increase in staff costs to implement the registry. Whether revenue collections would be sufficient to cover administrative costs is indeterminable. If IDEM hired ½ FTE field technician at \$25,704 per year; 1FTE Administrative Assistant 4 at \$37,011/year; and 1 FTE Environmental Manager 2 at \$56,107 per year to verify the property, annual increases in costs would equal \$118,822.

IC 13-18-23-3(f) directs the board to adopt rules regarding the wetland mitigation bank program. Portions of the rule requirements are in the preliminarily adopted rule.

The funds and resources required by the proposal could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. As of September 2002, IDEM reported 894 full-time employees with 155 vacancies for a total of 1,071. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Section 22 requires the Environmental Quality Service Council (EQSC) to monitor implementation, make recommendations, and review the role of IDEM in certain permit programs. The EQSC must complete evaluate the tensions between existing programs for wetlands protection and for local drainage; recommend principles and policies for ameliorating those tensions; and submit a final report to the Governor and Legislative Services Agency before November 1, 2003. Legislative Council Resolution 02-02 (as adopted July 24, 2002) provided a budget of \$12,000 for committees with over 16 members. The EQSC would be subject to this budget under the existing resolution.

Explanation of State Revenues: The owner of a wetland wanting to join the bank must register with IDEM. Registration includes a one time registration fee of \$10/acre or \$100/wetland. A person that purchases wetlands mitigation credits must pay a fee of \$25 to IDEM for sale of credits of any amount based on a wetland registered with the bank. The amount of revenue that will be generated by this provision is indeterminable.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: IDEM

Local Agencies Affected: Local units that contain certain wetlands.

Information Sources: IDEM

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